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F.#2010R00815/NYNYE0612

100-388

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF AN APPLICATION :
OF THE UNITED STATES OF AMERICA : SEALED APPLICATION
FOR AN ORDER AUTHORIZING THE :
RELEASE OF HISTORICAL CELL-SITE :
INFORMATION :
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Amanda Hector, an Assistant United States Attorney for the Eastern District of New York, hereby applies to the Court for an Order, pursuant to 18 U.S.C. § 2703(c)(1) and (d), directing that within seven days, Simple Mobile¹ and T-Mobile disclose recorded information identifying the base station towers and sectors that received transmissions from cellular telephone number (718) 593-2093, a telephone issued by Simple Mobile (the "SUBJECT WIRELESS TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT WIRELESS TELEPHONE during any calls or text message transmissions, for the period from July 20, 2011 through August 18, 2011 (collectively, "the HISTORICAL CELL-SITE INFORMATION").

In support of this application I state the following:

1. I am an Assistant United States Attorney in the Office of Loretta E. Lynch, United States Attorney for the

¹ Simple Mobile is a virtual network operator that uses T-Mobile's network.

Eastern District of New York. As such, I am a duly-authorized representative of a "governmental entity" under 18 U.S.C. § 2703(c) and (d) and, as such, am also authorized to apply for an Order authorizing the disclosure of the HISTORICAL CELL-SITE INFORMATION.

2. The Court is authorized to order the disclosure of the HISTORICAL CELL-SITE INFORMATION upon the government offering specific and articulable facts showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation. 18 U.S.C. § 2703(d).

3. I have discussed this matter with a special agent of Immigration and Customs Enforcement (the "investigative agency") who is involved in the investigation. Based upon my discussion with the agent, I believe that the information likely to be obtained is relevant to an ongoing criminal investigation as required by 18 U.S.C. § 2703(d).

4. Based upon discussions with a special agent of the investigative agency, the government hereby sets forth the following specific and articulable facts showing that there are reasonable grounds to believe the the information sought is relevant and material to an ongoing criminal investigation.

a. On September 14, 2011, a grand jury sitting in the Eastern District of New York returned an indictment

charging Crisel Herrera, also known as "Alexandra," with conspiracy to import heroin in violation of Title 21, United States Code, Sections 952(a) and 960(a)(1), attempted importation of heroin in violation of Title 21, United States Code, Sections 952(a) and 960(a)(1), and conspiracy to distribute cocaine and heroin in violation of Title 21, United States Code, Sections 846 and 841(a)(1). The indictment is currently under seal pending the arrest of Herrera and her co-defendants named in the indictment.

b. During the course of the investigation that led to the indictment described in the preceding subsection, Herrera was intercepted discussing her involvement in narcotics trafficking in recorded telephone conversations with a co-conspirator who was being held in federal custody at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. During these interceptions, some of which occurred on April 17, 2010 and April 19, 2010, Herrera used telephone number 347-482-3335 ("3335 Telephone"), with wireless telephone service provider Sprint.

c. The Sprint account corresponding to the 3335 Telephone was established on March 20, 2010 and closed on April 21, 2011. The subscriber name and address associated with the 3335 Telephone was Jose Pena, P.O. Box 54988, Irvine, California, 92619.

d. On April 13, 2011, eight days before the 3335 Telephone was closed, an account was opened with Simple Mobile for telephone number 718-593-2093 (the "2093 Telephone"). The account associated with the 2093 Telephone closed on August 18, 2011. The subscriber name associated with the 2093 Telephone was "mmm" and the address was P.O. Box 54988, Irvine, California, 92619, the same address associated with the 3335 Telephone.

e. A comparison between the telephone numbers frequently dialed by the 3335 Telephone and the 2093 Telephone reveals a high degree of correlation. The below chart includes some of the telephone numbers (denoted Telephone #1, Telephone #2, etc.) frequently dialed by both the 3335 and 2093 Telephones, as well as the frequency with which those telephone numbers were dialed by the 3335 and 2093 Telephones.

Dialed	Telephone	Frequency	Date
Telephone #1	3335 Telephone 2093 Telephone	92 times 65 times	1/12/11 - 2/20/11 5/15/11 - 7/24/11
Telephone #2	3335 Telephone 2093 Telephone	86 times 55 times	1/3/11 - 2/17/11 4/14/11 - 7/19/11
Telephone #3	3335 Telephone 2093 Telephone	98 times 118 times	1/1/11 - 2/14/11 4/14/11 - 7/17/11
Telephone #4	3335 Telephone 2093 Telephone	272 times 283 times	1/1/11 - 2/19/11 4/14/11 - 7/24/11
Telephone #5	3335 Telephone 2093 Telephone	128 times 183 times	1/1/11 - 2/22/11 4/14/11 - 6/14/11

f. Based on the facts described above in subsections a through e, including the use of the same subscriber address for

both the 3335 Telephone and the 2093 Telephone and the high degree of correlation with respect to frequently dialed numbers, there is reason to believe that Herrera is the user of the 2093 Telephone. HISTORICAL CELL-SITE INFORMATION with respect to the 2093 Telephone, therefore, will provide information useful to agents in locating the recent whereabouts of Herrera, which, in turn, will aid agents in their efforts to locate Herrera for the purpose of executing the arrest warrant pending against her.

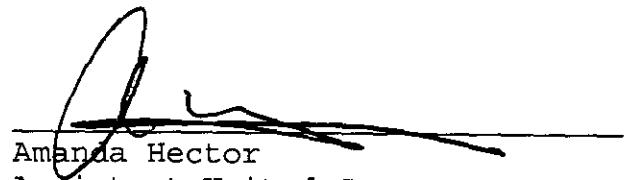
5. Based upon the above proffer, the government requests that the Court issue an Order that provides, pursuant to 18 U.S.C. § 2703(c)(1) and (d), a directive to Simple Mobile and T-Mobile to supply within seven days the HISTORICAL CELL-SITE INFORMATION for the period from July 20, 2011 through August 18, 2011.

6. The government also requests that Simple Mobile and T-Mobile, and any other person or entity whose assistance is used to facilitate the execution of the Order, be ordered not to disclose (a) the existence of the Order of Authorization; (b) the existence of the Order to Simple Mobile and T-Mobile; and (c) the production of the HISTORICAL CELL-SITE INFORMATION, to the listed subscriber for the SUBJECT TELEPHONE, or to any other person, unless and until otherwise ordered by the Court. Any such disclosure might alert the target to the existence of an

investigation and could likely lead to the destruction and concealment of evidence and/or the flight of the target.

7. No prior request for the relief set forth herein has been made. The foregoing is affirmed under the penalties of perjury. See 28 U.S.C. § 1746.

Dated: Brooklyn, New York
September 30, 2011


Amanda Hector
Assistant United States Attorney

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF AN APPLICATION :
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SEALED ORDER
OF AUTHORIZATION

This matter having come before the Court pursuant to an application by Assistant United States Attorney Amanda Hector, an attorney for the Government as defined by Rule 1(b) (1) of the Federal Rules of Criminal Procedure and a duly-authorized representative of a "governmental entity" under 18 U.S.C. § 2703(c) and (d), requesting an Order pursuant to 18 U.S.C. § 2703(c) (1) and (d), directing that within seven days, Simple Mobile² and T-Mobile disclose recorded information identifying the base station towers and sectors that received transmissions from cellular telephone number (718) 593-2093, which corresponds to a telephone issued by Simple Mobile (the "SUBJECT WIRELESS TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT WIRELESS TELEPHONE during any calls or text message transmissions, for the period from July 20, 2011 through August 18, 2011 (collectively, "the HISTORICAL CELL-SITE INFORMATION").

² Simple Mobile is a virtual network operator that uses T-Mobile's network.

UPON REVIEW OF THE APPLICATION, THE COURT HEREBY FINDS
THAT:

Pursuant to 18 U.S.C. §§ 2703(c)(1) and (d), the government has offered specific and articulable facts showing that there are reasonable grounds to believe that the HISTORICAL CELL-SITE INFORMATION is relevant and material to an ongoing criminal investigation into violations of federal criminal laws, including narcotics offenses in violation of 21 U.S.C. §§ 841, 846, 952 and 960, being conducted by Immigration and Customs Enforcement (the "investigative agency"); now therefore,

IT IS HEREBY ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d), that Simple Mobile and T-Mobile shall supply to the investigative agency within seven days the HISTORICAL CELL-SITE INFORMATION for the period from July 20, 2011 through August 18, 2011.

Good cause having been shown, IT IS FURTHER ORDERED, that this Order and the application be sealed until otherwise ordered by the Court, and that Simple Mobile and T-Mobile, its representatives, agents and employees, and any other person or entity involved in facilitating this Order shall not disclose in any manner, directly or indirectly, by any action or inaction, the existence of this Order, the existence of the Order to Simple Mobile and T-Mobile or the production of the HISTORICAL CELL-SITE INFORMATION, to the listed subscriber for the SUBJECT WIRELESS

TELEPHONE, the subscribers of the telephones initiating incoming calls to or receiving outgoing calls from the SUBJECT WIRELESS TELEPHONE, or to any other person.

Dated: Brooklyn, New York
September 30, 2011



UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
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TO: Simple Mobile and T-Mobile

WHEREAS this Court has, upon the application of the United States of America, entered an Order pursuant to 18 U.S.C. § 2701(c)(1) and (d), directing that within seven days Simple Mobile and T-Mobile disclose recorded information identifying the base station towers and sectors that received transmissions from cellular telephone number (718) 593-2093, which corresponds to a wireless telephone issued by Simple Mobile (the "SUBJECT WIRELESS TELEPHONE"), at the beginning and the end of calls or text message transmissions, and the mobile switching center serving the SUBJECT WIRELESS TELEPHONE during any calls or text message transmissions, for the period from July 18, 2011 through August 18, 2011 (collectively, the "HISTORICAL CELL-SITE INFORMATION")

NOW THEREFORE, IT IS HEREBY:

ORDERED, pursuant to 18 U.S.C. § 2703(c)(1) and (d), that Simple Mobile and T-Mobile shall supply within seven days the HISTORICAL CELL-SITE INFORMATION for the period from July 18, 2011 through August 18, 2011;

IT IS FURTHER ORDERED that this Order shall be sealed until otherwise ordered by the Court, except that copies may be retained by the United States Attorney's Office, Immigration and Customs Enforcement, Simple Mobile, T-Mobile and any other person or entity whose assistance is used to execute this Order; and

IT IS FURTHER ORDERED that unless and until otherwise ordered by the Court, Simple Mobile and T-Mobile, and their representatives, agents and employees, and any other person or entity providing technical assistance in executing this Order, shall not disclose until further notice in any manner, directly or indirectly, by any action or inaction, the existence of this Order or the production of the HISTORICAL CELL-SITE INFORMATION, to the listed subscriber for the SUBJECT WIRELESS TELEPHONE, the subscribers of the telephones initiating incoming calls to or receiving outgoing calls from the SUBJECT WIRELESS TELEPHONE, or to any other person.

Dated: Brooklyn, New York
September 30, 2011



UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK